

REMARKS

The Official Action rejected Claims 1-6, 8-10, 12, 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,066,257 to Bynum W. Moller in view of U.S. Patent No. 5,830,113 to Bruce F. Coody, et al. and U.S. Patent No. 6,331,153 to Robert T. McClellan. The Official Action also rejected Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over the Moller '257 patent in view of the Coody '113 patent and in further view of U.S. Patent No. 5,496,247 to Martin D. Anderson. As described below, independent Claim 1 has been amended to further patentably distinguish the claimed invention from the cited references, taken either individually or in combination. As a result of this amendment, dependent Claim 3 has been canceled. Additionally, Claims 11, 12 and 16 were rejected under 35 U.S.C. § 112, first paragraph, and an objection was lodged with respect to the drawings for failing to illustrate the subject matter of Claims 11, 12 and 16. As Claims 11, 12 and 16 have been canceled, the rejection under 35 U.S.C. § 112, first paragraph, and the objection to the drawings are moot. Based on the foregoing amendments and the following remarks, Applicant requests reconsideration of the present application and allowance of the current set of claims.

Independent Claim 1 is directed to an interior assembly of an aircraft. The interior assembly includes a structure fixed in position within an aircraft cabin and forming a wall that defines a region of the aircraft cabin. As further defined by dependent Claim 2, the structure may be a galley, a lavatory or a closet. In addition to the fixed structure, the interior assembly further includes a combined seating and treadmill exercise device that is positioned proximate to the structure. The combined seating and treadmill exercise device includes a treadmill track movable between stowed and deployed positions. As now amended, the combined seating and treadmill exercise device is structurally attached to either the fixed structure or the floor of the aircraft cabin in such a manner as to be capable of moving between the stowed and deployed positions. The interior assembly of independent Claim 1 also includes a folding seat that is structurally connected to the treadmill track and moveable with the treadmill track for enabling a person to sit thereon while the treadmill track is in the stowed position.

The primary reference, the Moller '257 patent, describes a treadmill exercise device capable of being alternately positioned between a horizontal operative position in which a user

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can walk or run upon the treadmill and an upright storage position. In this regard, the treadmill exercising device includes a cabinet pivotably mounted to a wall, such as means of a bracket mounted to a baseboard. The treadmill is disposed within the cabinet and can be pivotal either with the cabinet or independent of the cabinet. In instances in which the user desires to stow the treadmill, the cabinet and treadmill are pivoted upwardly to extend vertically upwards along the wall. Once stowed in a vertical manner along the wall, the treadmill may be latched to a bar mounted to the wall.

As to the secondary references, the Coody '113 patent was cited for its disclosure of a treadmill and seat combination with a foldable seat connected to the treadmill track for supporting a person while the treadmill track is stowed. Further, the Anderson '247 patent was cited for its disclosure of safety restraints as utilized in conjunction with exercise equipment. As to the McClellan '153 patent, the Official Action states "McClellan teaches the concept of using an exercise device in an aircraft. In view of this teaching, it would have been obvious to one skilled in the art to utilize the Moller, modified supra, treadmill in an airplane by attaching the wall attachment means 40 of Moller to an aircraft's wall such as a closet or galley wall."

Applicant submits that the McClellan '153 patent cannot properly be combined with the Moller '257 patent as the requisite motivation or suggestion to make such a combination is lacking. In order to properly combine references, a teaching or motivation to combine the references is essential. *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988). In fact, the Court of Appeals for the Federal Circuit has stated that "[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure of a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Although the evidence of a suggestion, teaching or motivation to combine the references commonly comes from the prior art references themselves, the suggestion, teaching or motivation can come from the knowledge of one of one of ordinary skill in the art or the nature of the problem to be solved. *Id.* In any event, the showing must be clear and particular and "[b]road conclusory statements regarding the teaching effort of multiple references, standing alone, are not 'evidence'." *Id.*

In this situation, the McClellan '153 patent is directed to a portable leg exercising device. Notably, column 1, lines 30-34 of the McClellan '153 patent states “[i]t is an object of the present invention to provide a leg exercising device that is truly portable, i.e., can be easily carried about, and can be used by persons while traveling in automobiles, airplanes, buses, trains, etc.” Moreover, the McClellan '153 distinguishes the portable leg exercising device from conventional exercise devices that are large and exercise substantial horizontal space. Thus, it is submitted that a person skilled in the art would not have been motivated by the McClellan '153 patent or otherwise to have deployed a treadmill of the type described by the Moller '257 patent in an aircraft in a manner so as to be structurally attached to the aircraft, as recited by amended independent Claim 1. Instead, it is submitted that a person skilled in the art would have been motivated to utilize a portable exercise device onboard an aircraft which the person could carry on and off the aircraft, while using a treadmill of the type described by the Moller '257 patent at home where the treadmill can be attached to a wall, such as by means of a bracketed connected to the baseboard.

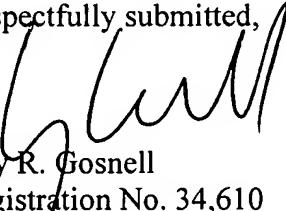
Thus, Applicant submits that no proper combination of the cited references teaches or suggests the interior assembly for an aircraft as recited by amended independent Claim 1 in which a combined seating and treadmill exercise device is disposed proximate to a fixed structure within an aircraft cabin and structurally attached to either the fixed structure or the floor of the aircraft cabin. As the dependent claims include the recitations of amended independent Claim 1, the dependent claims are also not taught or suggested by any proper combination of the cited references for at least the same reasons as described above in conjunction with Claim 1. However, the dependent claims include additional recitations that define other patentable aspects of the claimed invention. For example, dependent Clam 2 defines the fixed structure to be a galley, lavatory or a fixed closet. In contrast, none of the cited references teach or suggest that a combined seating and treadmill exercise device be disposed proximate to any one of these particular type of fixed aircraft structures such that Claim 2 further patentably distinguishes the claimed invention. For each of the foregoing reasons, it is therefore submitted that the rejection of Claims 1-10, 12, 14 and 15 is overcome.

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CONCLUSION

In view of the amended claims and the foregoing remarks, Applicant submits that all rejections have been overcome and that the amended set of claims is in condition for immediate allowance. Applicant therefore requests issuance of a Notice of Allowance at the earliest juncture. If any issues arise during the consideration of this Amendment, the Examiner is requested to telephone Applicant's undersigned attorney to expeditiously resolve such issues.

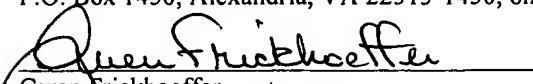
It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 28, 2005.


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